

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

TOMMIE WALKER and,	)	
PATRICIA WALKER,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
v.	)	FILE NO.:
	)	
STATE FARM INSURANCE	)	[On removal from the Superior Court
COMPANY,	)	of Cherokee County, Georgia;
	)	Civil Action File No. 23CVE1056]
Defendant.	)	

**NOTICE OF REMOVAL**

COMES NOW, State Farm Fire and Casualty Company, by special appearance and on behalf of “State Farm Insurance Company,” and hereby files this Notice of Removal, respectfully showing this Honorable Court as follows:

1.

On June 2, 2023, Plaintiffs Tommie and Patricia Walker (the “Plaintiffs”), by and through counsel, filed a Complaint against “State Farm Insurance Company” in the Superior Court of Cherokee County, Georgia, styled as *TOMMIE WALKER AND PATRICIA WALKER, v. STATE FARM INSURANCE COMPANY*, assigned Case No. 23CVE1056 (the “Superior Court Action”). True and correct copies of all

process, pleadings, and orders to date in the Superior Court Action are collectively attached hereto as Exhibit “1.”

2.

The Complaint and Summons in this action were served on June 14, 2023. Thus, removal is timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, embraces Cherokee County, Georgia. Removal to this Court is therefore proper under 28 U.S.C. § 1441(a).

4.

Pursuant to 28 U.S.C. § 1446(d), at the time of the filing of this Notice of Removal, State Farm Fire and Casualty Company has given written notice to the Plaintiffs by notifying their attorney of record, Nicholas Martin, and has filed a copy of this Notice of Removal with the Clerk of Superior Court of Cherokee County, which shall effect the removal.

**DIVERSITY JURISDICTION**

5.

The United States District Court for the Northern District of Georgia, Atlanta Division, possesses diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

6.

Plaintiffs Tommie Walker and Patricia Walker are residents of Cherokee County, Georgia. See, Complaint, ¶ 1.

7.

State Farm Fire and Casualty Company is a corporation organized under the laws of the State of Illinois, with its principal place of business in the State of Illinois. Thus, State Farm Fire and Casualty Company is a citizen of the State of Illinois.

8.

Because Plaintiffs and State Farm Fire and Casualty Company are citizens of different States, complete diversity exists between Plaintiffs and State Farm Fire and Casualty Company in accordance with 28 U.S.C. § 1332(a)(1).

9.

In the Complaint, Plaintiffs seek recovery for unspecified amounts of damage related to the purported fire and smoke damage to their property.

10.

Plaintiffs' prior counsel, F. Scott Fistel, sent a letter on November 30, 2022 defining the scope of Plaintiffs' damages now estimated to be no less than \$217,181.21. (See, Exhibit 2, Affidavit of Dawn Martin).

11.

State Farm previously issued payments to Plaintiffs in the amount of \$98,064.46. (See, Exhibit 2, Affidavit of Dawn Martin).

12.

Based on Plaintiffs' updated estimate less State Farm's prior payments, Plaintiffs' Claim for damages is at least \$119,116.75. Plaintiffs have also alleged statutory bad faith penalties pursuant to O.C.G.A. 33-4-6, which afford penalties of 50% of the amount recovered. This brings the amount of damages claimed by Plaintiff to \$178,675.12.

13.

Accordingly, the amount in controversy, which totals \$178,675.12 exceeds the jurisdictional requirement of \$75,000.00, exclusive of interest and costs, as set forth in 28 U.S.C. § 1332(a).

14.

Venue is proper in this Court for purposes of removal under 28 U.S.C. § 1441(a). By filing this Notice of Removal, State Farm Fire and Casualty Company does not waive any of its affirmative defenses.

WHEREFORE, State Farm Fire and Casualty Company prays that this action proceeds in this Court as an action properly removed pursuant to 28 U.S.C. § 1446, and that no further proceedings be had in said case in the Superior Court of Cherokee County, Georgia.

This 14<sup>th</sup> day of July, 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Jessica M. Phillips

Jessica M. Phillips

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**LOCAL RULE 5.1(C) CERTIFICATION**

By signature below, counsel certifies that the foregoing pleading was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1(C).

Respectfully submitted this 14<sup>th</sup> day of July, 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have electronically filed the foregoing **State Farm Fire and Casualty Company's Notice of Removal** with the Clerk of Court via the CM/ECF system, through which the Court will send notification to the following attorney:

Nicholas P. Martin  
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*Attorney for Plaintiffs*

This 14<sup>th</sup> day of July, 2023.

Respectfully Submitted,

**SWIFT, CURRIE, MCGHEE & HIERS, LLP**

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